

or that one or more of said owners is or are under some legal disability to contract, unknown or non-resident, according to the facts; and the said petition shall contain a prayer that the said property may be condemned.

Act of 1912, ch. 117, is constitutional and valid. Appointment of appraisers not so far non-judicial as to render act void. A condemnation proceeding under said act is a proceeding at law, the judgment being *in rem*; pleadings should conform as near as may be to pleadings at law. Constructive notice by publication is sufficient to support judgment *in rem* against non-residents, unknown persons, etc. Where statute provides for assessment of value of land taken in condemnation, it will be held to include damages to remainder of tract. Rule by which value of property taken is to be estimated is a judicial question for court. Authentication of a statute and impeachment thereof. Statute required to be engrossed only in house in which it originated. Purpose of act of 1912, ch. 117. *Ridgely v. Baltimore City*, 119 Md. 575. And see *Pitznogle v. Western Maryland R. R. Co.*, 119 Md. 677; *Jessup v. Baltimore*, 121 Md. 562.

The jury contemplated by the act of 1912, ch. 117, need not be one selected in the usual way from those which are regularly drawn as jurors to serve at a given term; a special venire may be ordered. Under said act, testimony is to be taken and case tried in court just as in other cases. Failure of sheriff to return names of persons summoned as jurors does not invalidate return, nor affect eligibility of jurors. *Pitznogle v. Western Maryland R. R. Co.*, 119 Md. 675.

Petition held to sufficiently comply with this section. Charter of railroad company held sufficient to authorize it to condemn property under this and the following sections. Right of way for a crossing over a city street may be condemned by a railroad company; how the crossing should be constructed. Petition and exhibits and answer and exhibits, without other evidence, held insufficient to authorize judgment in condemnation case; case remanded. See notes to art. 23, sec. 195. *Hyattsville v. Washington, etc. R. R. Co.*, 120 Md. 130 (decided prior to the act of 1914); *Ibid.*, 124 Md. 578.

Contention that jurisdiction conferred on circuit courts of the counties and law courts of Baltimore city by this article is a special and limited one entirely distinct from and independent of their common law powers, not questioned. A petition for condemnation should be filed in county or city of Baltimore where property is situated. *Park Land Corporation v. Baltimore*, 128 Md. 611.

Under act of 1912, ch. 117, no appeal lay from an order of court appointing appraisers or overruling motion to strike out an order appointing appraisers. No appeal lies to court of appeals from action of circuit court in cases such as were provided for by act of 1912, ch. 117, if circuit court had jurisdiction. *Hyattsville v. W., W. & G. R. Co.*, 124 Md. 578.

This article referred to in a suit to restrain the carrying out of an agreement for construction of a municipal drain entered into after the institution of condemnation proceedings. *Baltimore v. Forest Park Co.*, 123 Md. 294.

Nature of condemnation proceedings. The right of removal has no application to such proceedings under act of 1912, ch. 117. When application for removal, even if it could otherwise be granted, comes too late. *Baltimore v. Kane*, 125 Md. 138.

See art. 23, secs. 154, 184, 203, 321, 330, 331 and 337.

State board of forestry has the right of condemnation—art. 39A, sec. 28.

See notes to art. 33A, secs. 9, 13 and 15; art. 23, sec. 379; art. 26, sec. 30, and art. 91, sec. 28.

An. Code, sec. 2. 1912, ch. 117. 1914, ch. 463, sec. 3.

2. Upon the filing of said petition, the Court or any judge thereof shall pass an order directing a summons to issue for the defendants, to be served in the same manner as a summons in actions at law, and to be returned by some day to be named in said order, not less than ten days nor more than twenty days from the day of the filing of said petition. If any defendant be not summoned before the return day of said summons, the summons may be renewed from time to time, as often as the Court in its discretion may think proper; or if any defendant is non-resident or unknown, or is returned *non est*, the Court may order the sheriff to set up a copy of the summons for such defendants upon the property, and a notice to be published once a week for three successive weeks,